

**ATTACHMENT 7.**

**MPC Resolution No. MPC 2004-2**

RESOLUTION NO. MPC 2004-2

RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITY OF SCOTTSDALE MUNICIPAL PROPERTY CORPORATION AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF ITS EXCISE TAX REVENUE BONDS, SERIES 2004A, IN AN ORIGINAL PRINCIPAL AMOUNT NOT TO EXCEED \$42,000,000 FOR THE ACQUISITION OF CERTAIN REAL PROPERTY FROM THE ASU FOUNDATION AND PAYMENT OF THE RELATED COSTS OF ISSUANCE; AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF THE DOCUMENTATION REQUIRED FOR THE ISSUANCE AND SALE OF THE BONDS AND FOR THE PURCHASE, AND THE SALE AND TRANSFER, OF THE REAL PROPERTY TO THE CITY.

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WHEREAS, the City of Scottsdale Municipal Property Corporation (the "MPC") was created for the express purpose of aiding and assisting the City in financing or refinancing municipal facilities and property at no profit to itself or to any other person except the City of Scottsdale, Arizona (the "City"),

WHEREAS, the City desires to partner with the ASU Foundation (the "Foundation") in the development of the ASU Scottsdale Center for New Technology and Innovation (the "Project") in the City to assist in the economic development of and creation of approximately 4,000 new jobs in the City;

WHEREAS, in support of the Project, the City would like to acquire the real property on which the Project will be built (the "Property"), for sale to the City and lease to the Foundation for use, in turn, by Arizona State University;

WHEREAS, the MPC is aware of the City's desire to acquire the Property and proposes to finance the acquisition of such real property for sale to the City as set forth herein,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF SCOTTSDALE MUNICIPAL PROPERTY CORPORATION AS FOLLOWS:

1. The MPC's issuance and sale of its Excise Tax Revenue Bonds, Series 2004A (the "Bonds") in an original principal amount not to exceed \$42,000,000, the application of the proceeds thereof to acquire the Property and the sale of the Property to the City are hereby authorized and approved.

2. The Bonds will be dated on or about September 1, 2004, will be issued as fully registered bonds in book-entry form in the denomination of \$5,000 each or any integral multiple thereof, will bear interest from the date of the Bonds to the maturity (or prior redemption) of each Bond at the rates to be established at the time of sale but not to exceed \_\_\_\_\_ percent (\_\_\_%) per annum, payable semiannually on each January 1 and July 1, until the maturity or prior redemption of each of the Bonds, commencing on the January 1 or July 1 which occurs at least three months following the issuance of the Bonds, and to mature on July 1 each year over a period of not to exceed thirty (30) years, commencing on or before July 1, 2006.

3. The Bonds will be issued pursuant to and secured by a trust indenture, to be dated on or about September 1, 2004 (the "Trust Indenture"), between the MPC and Wells Fargo Bank, N.A., as trustee (the "Trustee").

4. The officers of the MPC are each authorized and empowered to negotiate for and purchase municipal bond insurance insuring payment when due of debt service on the Bonds if the premium paid for such insurance is less than the present value of the interest reasonably expected to be saved by virtue of the purchase of such insurance.

5. The Bonds are hereby ordered to be sold, in the discretion of the City's Financial Services General Manager, by either:

(i) a public sale in accordance with a Notice Inviting Proposals for the Purchase of Excise Tax Revenue Bonds, Series 2004A (the "Notice Inviting Proposals") in substantially the form attached hereto as Exhibit A which will be disseminated so as to be made known to potential bidders for the Bonds, or

(ii) pursuant to the terms of a Bond Purchase Contract in a form customarily used in the industry (the "Bond Purchase Contract") to be entered into among the MPC, the City and an underwriter (the "Underwriter") to be selected by the City's Financial Services General Manager, acting for and on behalf of the MPC.

6. The Property will be purchased from the Foundation in cash for a price not exceeding \$41,500,000 and will be sold and transferred to the City pursuant to an agreement, to be dated on or about September 1, 2004 (the "Agreement"), between the MPC and the City, providing for the City's payment of the purchase price in installments sufficient to pay when due the debt service on the MPC's bonds and secured by a pledge of the City's excise tax revenues

7. The proposed forms of (i) the Trust Indenture, providing for the issuance, sale and payment of and security for the Bonds, (ii) the Agreement, providing for the installment sale and transfer to the City of the MPC's interest in the Property, and (iii) the Continuing Disclosure Undertaking to be executed and delivered by the City to enable the original purchaser of the Bonds to comply with the provisions of Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended, are hereby approved, and the President and any Vice President of the MPC are each hereby authorized, empowered and directed for and on behalf of the MPC to execute and deliver such instruments and agreements to the other parties thereto in substantially the respective forms thereof presented to this meeting or with such changes or modifications therein as may be approved by the officer executing and delivering the same, as evidenced conclusively by such execution and delivery.

8. Without the necessity of any further action by this Board of Directors, any officer or officers of the MPC be, and they are, hereby authorized, empowered and directed to sign and execute on behalf of the MPC any contract, instrument, agreement or other document, and to take any action or actions, necessary to issue and sell the Bonds, to purchase the Property and to sell the Property to the City and otherwise to carry out and complete the transactions approved and authorized by the foregoing resolutions.

PASSED, ADOPTED AND APPROVED, by the Board of Directors of the City of  
Scottsdale Municipal Property Corporation, on June 9, 2004.

CITY OF SCOTTSDALE MUNICIPAL  
PROPERTY CORPORATION, an Arizona  
nonprofit corporation

William C. Jones  
By:  
Its:

ATTEST:

Greg Schuster  
By:  
Its: *acting Secretary*

APPROVED AS TO FORM:

SNELL & WILMER L.L.P.  
Bond Counsel

By: William A. Hicks III

## CERTIFICATION

I HEREBY CERTIFY that I am the duly elected, qualified and acting Secretary of City of Scottsdale Municipal Property Corporation, the above-named Arizona nonprofit corporation; that the foregoing is a true and correct copy of a resolution duly adopted at a meeting of the Board of Directors of said Corporation held on June 9, 2004, at which a quorum was present and acting at all times; that the same has been recorded in the minutes of said Corporation and has not been amended, modified or revoked subsequent to such date.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of June, 2004.

  
William C. Jenkins, Secretary

**EXHIBIT A**

**NOTICE INVITING PROPOSALS  
FOR THE PURCHASE OF BONDS**

\$ \_\_\_\_\_  
**CITY OF SCOTTSDALE MUNICIPAL PROPERTY CORPORATION  
EXCISE TAX REVENUE BONDS, SERIES 2004A**

**NOTICE IS HEREBY GIVEN** that the City of Scottsdale Municipal Property Corporation (the "MPC") will receive sealed, unconditional proposals, and proposals via PARITY, to and including the hour of \_\_\_\_\_, Mountain Standard Time (M.S.T.) (Phoenix, Arizona does not observe daylight savings time) on the sale date, which will be \_\_\_\_\_, 2004, for the purchase of all, but not less than all, of the above-referenced bonds (the "Bonds"), unless the MPC acting through an authorized representative postpones receipt of such proposals to a later date. A determination to postpone the sale date will be made and announced by 11:00 A.M., M.S.T. on the business day preceding the scheduled sale date. Sealed proposals must be submitted at the Financial Services Department of the City of Scottsdale (the "City"), 7447 E. Indian School Road, Suite 210, Scottsdale, Arizona 85251. The Financial Services General Manager of the City, acting for and on behalf of the MPC, will decide on that date whether to award the Bonds to the bidder offering the best bid or to reject all proposals.

The Bonds will be dated on or about September 1, 2004, upon initial issuance, will bear interest from the date of the Bonds to the maturity or earlier redemption of each of the Bonds at a rate or rates not to exceed \_\_\_\_\_% per annum, payable semiannually on January 1 and July 1 of each year prior to the maturity or prior redemption of each of the Bonds, commencing \_\_\_\_\_, 200\_\_\_\_. The Bonds will mature (or be subject to mandatory redemption) on July 1 in the years and in the amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
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Bidders may specify that the principal amounts of Bonds scheduled to mature in successive years on and after \_\_\_\_\_ be combined into one or more term bonds subject to mandatory redemption in accordance with the schedule above. Serial maturities converted to term bond(s), as permitted, must bear the same rate of interest.

**PURPOSE:** The Bonds are being issued pursuant to the Constitution and laws of the State of Arizona, and pursuant to resolutions adopted by the MPC on June 9, 2004, and are being issued for the purpose of providing funds to acquire certain real property in the City for

sale and transfer to the City and, in turn, for lease to the ASU Foundation for development of the ASU Scottsdale Center for New Technology and Innovation, and to pay costs relating to the issuance of the Bonds. The property will be sold and transferred by the MPC to the City pursuant to an installment agreement between the MPC and the City (the "Agreement") providing for the City's payment of amounts at times necessary to provide for the payment of debt service on the Bonds. The City's obligations pursuant to the Agreement will be secured by a pledge of and a lien on the City's transaction privilege taxes.

**OPTIONAL REDEMPTION:** The Bonds maturing on or before July 1, 20\_\_\_\_ are not subject to call for redemption prior to maturity. The Bonds maturing on or after July 1, 20\_\_\_\_ are subject to call for redemption prior to maturity, at the option of the MPC, on or after July 1, 20\_\_\_\_, in whole or in part at any time, by the payment of the principal amount of each Bond called for redemption plus accrued interest to the date fixed for redemption, but without a premium.

**NOTICE OF REDEMPTION:** Notice of redemption will be given by mail to each of the registered owners of the Bonds at the address shown on the bond register maintained by the bond registrar not less than 30 days nor more than 60 days prior to the specified redemption date.

**REGISTRAR AND PAYING AGENT:** The Bonds will be transferable only on the books maintained by the registrar upon surrender to the registrar with an appropriate instrument of transfer. The initial registrar and paying agent for the Bonds will be Wells Fargo Bank, N.A. The registrar and paying agent may be changed during the term of the Bonds.

**FORM AND DENOMINATIONS:** The Bonds will be issued only in registered form as to both principal and interest, in the denominations of \$5,000 or integral multiples thereof.

The Bonds will be issued, initially, in book-entry form and each person submitting a proposal agrees that if awarded the contract for the purchase of the Bonds, it will accept delivery of and pay for one fully registered Bond registered in the name of CEDE & CO., as nominee for the Depository Trust Company ("DTC") and representing the entire principal amount of each maturity for which other registration instructions are not given to the registrar at least 7 business days before the closing and delivery of the Bonds.

**INTEREST RATES AND OFFERING PRICES:** Proposals for the purchase of the Bonds must state the rate or rates of interest to be paid. All Bonds of the same maturity must bear the same rate of interest. The difference between the highest interest rate proposed for any maturity and the lowest interest rate proposed for any other maturity may not exceed 2% per annum. Interest will be calculated on the basis of a 360-day year of twelve 30-day months. Interest rates must be expressed in multiples of one-eighth ( $1/8^{\text{th}}$ ) or one-twentieth ( $1/20^{\text{th}}$ ) of one percent (1%). The highest rate which may be specified is \_\_\_\_% per annum.

Any interest rate proposal which would result in an interest payment amount having fractional cents will be deemed a waiver of the right to payment of such fractional cents. No fractional cents will be paid or accumulated for payment on any Bond.

The purchaser will be required to furnish to the MPC information as to the issue prices of the Bonds promptly, and in any event within seven business days, after such issue prices are established.

**PAYMENT:** Interest on the Bonds will be payable by check mailed at or prior to each interest payment date to the registered owner of the Bonds at the address shown on the books of the registrar on the 15<sup>th</sup> day of the month preceding each interest payment date. Principal of and any redemption premium on the Bonds, at maturity or on any redemption prior to maturity, will be payable upon presentation and surrender of the Bonds at the principal corporate trust office of the paying agent.

Payment of interest on the Bonds and, if adequate terms for surrender are made, principal of and premium, if any, on the Bonds may be made by wire transfer upon two days' prior written request by any registered owner owning an aggregate principal amount of at least \$1,000,000 of Bonds to the Bond Registrar and Paying Agent, specifying the wire address in the United States.

**SECURITY:** Principal of and interest on the Bonds are payable from the revenues received by the MPC from the City pursuant to the Agreement. The City's obligations pursuant to the Agreement are secured by a pledge of and a lien on the City's excise (sales and use) tax collections.

**FORM OF PROPOSAL:** A prescribed form of proposal for the purchase of the Bonds will be provided and all proposals must be submitted either (i) on that form **in a separate sealed envelope containing no other proposals and indicating clearly on its face that it contains a proposal for the purchase of the Bonds**, or (ii) via PARITY. [All proposals must be unconditional [and must be accompanied by a certified or cashier's check drawn on a bank doing business in the State of Arizona or a financial surety bond issued by an insurance company licensed to do business in the State of Arizona and payable to the order of the MPC in an amount of \$\_\_\_\_\_, which is equal to \_\_\_\_ percent (\_\_\_\_%) of the par value of the Bonds (the "Deposit"). No interest will be paid on the check of any bidder and checks of the unsuccessful bidders will be returned upon the award of the Bonds to the successful bidder. If a financial surety bond is used, it must be submitted to the MPC or its financial consultant prior to the opening of the bids. The financial surety bond must identify each bidder whose Deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, that purchaser is required to submit the Deposit to the MPC in the form of a certified or cashier's check or wire transfer as instructed by the MPC or its financial consultant not later than twenty-four (24) hours following the award. If such deposit is not received at that time, the financial surety bond may be drawn on by the MPC to satisfy the Deposit requirement. The Deposit of the successful bidder will be applied to the purchase price of the Bonds or retained and forfeited as liquidated damages in the event such purchaser does not take up and pay for the Bonds immediately upon the MPC's satisfaction of all conditions necessary to their issuance and delivery.]

**RIGHT OF REJECTION:** The MPC reserves the right, in its discretion, to reject any and all proposals received and to waive any irregularity or informality in the proposals, except that the time for receiving proposals is of the essence.

**CUSIP NUMBERS:** It is anticipated that CUSIP numbers will be placed on the Bonds, but neither failure to print such numbers on any Bond nor any error with respect thereto, will constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of the sale. No CUSIP number will be deemed to be a part of any Bond or of the contract evidenced thereby. All expenses of printing CUSIP numbers of the Bonds will be paid by the MPC, but the CUSIP Service Bureau charge for the assignment of CUSIP numbers will be paid by the purchaser of the Bonds.

**AWARD AND DELIVERY:** Unless all proposals are rejected, the Bonds will be awarded to the bidder whose proposal results in the lowest true interest cost to the MPC. The true interest cost will be computed by doubling the semiannual interest rate (compounded semiannually) necessary to discount the debt service payments from their respective payment dates to the Dated Date of the Bonds and the price bid, including any premium or discount but excluding accrued interest. In the event that two or more bidders have bid the same true interest cost, the award will be made by lot. Delivery of the Bonds will be made to the purchaser upon payment in immediately available funds in Scottsdale, Arizona, or, at the purchaser's request and expense, at any other place mutually agreeable to both the MPC and the purchaser.

**NOTICE REGARDING STATE CONTRACTS:** Arizona law requires that every contract to which the State, its political subdivisions or any of the departments or agencies of the State or its political subdivisions, including the City, is a party include notice that such contract is subject to cancellation, within three (3) years after its execution, by the State, or the political subdivision, including the City, department or agency which is a party to such contract, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the State, or the political subdivision, including the City, department, or agency, is, at any time while the contract is in effect, an employee of any other party to the contract or an agent or consultant of any other party to the contract with respect to the subject matter of the contract.

**LEGAL OPINION:** The Bonds are sold with the understanding that the MPC will furnish the purchaser with the approving opinion of Snell & Wilmer L.L.P., Phoenix, Arizona. These attorneys have been retained by the MPC as Bond Counsel and in such capacity are to render their opinion only upon the legality and enforceability of the Bonds under Arizona law **[and on the exclusion of the interest on the Bonds from the gross income of the owners of the Bonds for Federal income tax purposes and from the taxable income of the owners of the Bonds for State of Arizona income tax purposes?]**. Fees of Bond Counsel will be paid from the Bond proceeds.

**[TAX EXEMPT STATUS:** The Internal Revenue Code of 1986, as amended (the "Code") contains a number of requirements and restrictions which apply to the Bonds, including investment restrictions, periodic payments of arbitrage profits to the United States, requirements regarding the proper use of Bond proceeds and the facilities financed therewith and certain other matters. The MPC and the City have each covenanted to comply with all requirements of the Code that must be satisfied in order for the interest on the Bonds to be excludable from gross income for Federal income tax purposes. Failure to comply with certain of such covenants could cause interest on the Bonds to become includable in gross income for Federal income tax purposes retroactive to the date of issuance of the Bonds.

Subject to the condition that the MPC and the City comply with the above-referenced covenants, under present law, in the opinion of Bond Counsel, the Bonds are not "private activity bonds" within the meaning of the Code, and interest on the Bonds will not be includable in gross income of the owners thereof for Federal income tax purposes or the taxable income of the owners thereof for State of Arizona tax purposes, and will not be treated as an item of tax preference in computing the Federal alternative minimum tax for individuals and corporations. Interest on the Bonds will be taken into account, however, in computing an adjustment used in determining the Federal alternative minimum tax for certain corporations.

Ownership of the Bonds may result in collateral Federal income tax consequences to certain taxpayers. Prospective purchasers of the Bonds should consult their tax advisors as to applicability of any such collateral consequences.]

**[CERTIFICATE TO BE DELIVERED BY SUCCESSFUL BIDDER:** Simultaneously with or before delivery of the Bonds, the successful bidder must furnish to the MPC a certificate acceptable to Bond Counsel to the effect that (i) as to the Bonds of each maturity for which a bona fide public offering has been made, as of the date on which the MPC awarded the sale of the Bonds to the successful bidder, the bidder reasonably expected that at least 10% of the Bonds of such maturity would be sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at a yield no lower and a price no higher than shown for that maturity in such certificate, plus accrued interest; (ii) as to the Bonds of each maturity for which a bona fide public offering has not been made, either (a) at least 10% of such maturity has actually been sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers), or (b) all Bonds of such maturity have actually been sold, at a yield no lower and a price no higher than as shown for that maturity in such certificate, plus accrued interest; and (iii) none of the prices for Bonds shown in such certificate exceed the fair market value of such Bonds as of the date on which the MPC awarded the sale of the Bonds to the successful bidder.]

**CERTIFICATE TO BE DELIVERED BY MPC:** The MPC and the City will each deliver a certificate to the effect that no litigation is pending affecting the issuance or sale of the Bonds or the execution or delivery of the Agreement. **[The MPC and the City will also each deliver a tax compliance certificate covering its reasonable expectations concerning use of the proceeds of the Bonds and related matters.]**

**COMPLIANCE WITH RULE 15c2-12:** The MPC deems the Preliminary Official Statement provided in connection with the sale of the Bonds to be final as of its date for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended, except for the omission of the offering prices or yields, the interest rates, the selling compensation, any other terms or provisions required by the MPC to be specified in the bid, other terms of the Bonds depending on such matters, and the identity of the purchaser. The City will enter into a continuing disclosure undertaking with respect to the Bonds, which undertaking will be as described in the Preliminary Official Statement.

**ADDITIONAL INFORMATION:** Copies of the prescribed bid form and the Preliminary Official Statement relating to the Bonds will be furnished to any bidder upon request made to the City Clerk at 3939 North Drinkwater Boulevard, Scottsdale, Arizona 85251, telephone number (480) 312-2412 or Piper Jaffray & Co., 2525 E. Camelback Rd., Suite 900, Phoenix, Arizona 85016, financial adviser to the MPC, telephone number (602) 808-5424. One hundred (100) copies of the final Official Statement will be made available without cost to the successful bidder and further copies, if desired, will be made available at the successful bidder's expense.

CITY OF SCOTTSDALE MUNICIPAL PROPERTY  
CORPORATION, an Arizona nonprofit corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_